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In re Application of :
VAN DYK, Andre :
U.S. Application No.: 10/500,705 :
PCT No.: PCT/ZA02/00211 :
Int. Filing Date: 17 December 2002 :
Priority Date: 03 January 2002 :
Attorney's Docket No.: 2004_1032A :
For: EXPLOSIVE PRESSURE WAVE :
CONCENTRATOR :

DECISION

The decision is in response to the "Renewed Petition Under 37 CFR 1.47(b)" ("Pet.") submitted on 10 June 2005.

BACKGROUND

On 24 March 2005, a decision dismissing applicant's petition under 37 CFR 1.47(b) was mailed. The 37 CFR 1.47(b) applicant failed to meet the requirements of items (2) and (5) of 37 CFR 1.47(b).

On 10 June 2005, petitioner submitted the instant renewed petition which was accompanied by, *inter alia*, a declaration of Roy Francis Taberer ("Decl."); a copy of a letter dated 03 May 2005; a copy of the registered mail envelope; a delivery history; and a statement under 37 CFR 3.73(b).

DISCUSSION

A petition under 37 CFR 1.47(b) requires (1) the petition fee, (2) factual proof that the inventor refuses to execute the application or cannot be located, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the nonsigning inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage. Applicant satisfied items (1), (3), (4) and (6) in the initial petition.

Concerning item (2), the 24 March 2005 decision requested that the 37 CFR 1.47(b) applicant demonstrate that the nonsigning inventor received a copy of the

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application and has that he failed to respond.

In the renewed petition, the 37 CFR 1.47(b) applicant has provided sufficient evidence to meet the requirements of item (2) of 37 CFR 1.47(b). Petitioners submitted a declaration by Mr. Taberer who claims that he provided a copy of the application and declaration via registered mail on 03 May 2005. Decl. at ¶ 2. Petitioner included documentary evidence that the nonsigning inventor received those documents on 09 May 2005. Mr. Taberer states that he called Mr. Van Dyk on 23 May 2005 and was told that he would not cooperate. Id. at ¶ 3.

Regarding item (5), petitioner has provided a statement under 37 CFR 3.73(b) by the assignee as required. The statement was signed by the General Manager of the assignee, Mr. Toto. A statement that Mr. Toto was authorized to act on behalf of the assignee was included. Item (5) is now complete.

Accordingly, the 37 CFR 1.47(b) applicant has now met all of the requirements of 37 CFR 1.47(b).

CONCLUSION

Applicant's renewed petition under 37 CFR 1.47(b) is **GRANTED**.

As provided in 37 CFR 1.47(b), a notice of the filing of this application will be forwarded to the non-signing inventor at the last known address of record as set forth in the papers filed 01 February 2005 and a notice of the filing of the application under 37 CFR 1.47(b) will be published in the Official Gazette.

Applicant has completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 17 December 2002 under 35 U.S.C. 363, and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 01 February 2005.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.



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For: EXPLOSIVE PRESSURE WAVE
CONCENTRATOR

Mr. Van Dyke:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. § 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

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